2: Read E-5 (1935-1939) 1956
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brothers of the dead Paramount who acted as regents. Thus Ngwana was cremated in Ulosi before crossing the Zambesi, and Mputa was cremated in the river Lichiningo in Songea in Tanganyika. This was confirmed by an informant of the Gama clan who were for a time under the central Ngoni Paramount in Songea and later were allied with the northern Ngoni. He said 'We killed Mputa, the *inkosi*, when fighting, and his people burned him because it was their custom in burying to burn.'

An old woman who came from Portuguese territory to see me in the central kingdom said that when Zintambira I died the Portuguese made them bury him 'in a box'. The onlookers in Mcakatha at the time of my interview with the old woman said 'Yes, they were not allowed to burn him.'

The central Ngoni leaders referred often to the ritual significance of the cremation of their Paramount, followed by the washing of the ashes into the stream 'to strengthen the land'. On my first arrival in the central kingdom I was questioned closely by several of the big *izinduna* and *ahumuzana* about the practice of cremation in England. They alleged that, under the influence of the local mission, the Paramount Gomani II had said that he wished to be buried in a coffin with Christian burial rites. They were much concerned about this, because of the effect on the strength and status of his successor and on the country as a whole. 'If he is not burned his children will not be honoured and will only be as *ahumuzana*. Is it right that another tribe, the English, should come and change our customs?' Great relief was expressed when I told them that Christians were cremated in England with full Christian ritual, and also when I told them that the ashes of one of the early Scottish missionaries in northern Ngoniland had been brought back by his widow to lie there.

The following account of the funeral of Cikusi was given to Rattray:

¶ When the chief of the whole country dies, they do not immediately inform the people of his own village. First they send messengers to other villages, to tell them 'the clouds have fallen today'. They do this because they fear, 'if we tell his own men first, they may go and commence to forage and plunder, as is done at a chief's death'. Then all begin to assemble, all the war bands from the different villages, shields in hand. They are decked out in their feather head-dresses, and wristlets and anklets of goat's hair; (the bands) glitter as if it were all for show and not for a funeral. Then some of the old men dress the dead chief for burial. The knees are bent against the chest, and the arms bent, the hands are laid against the cheeks, and they take a small gourd-cup and make him grasp it in his hand. When they bathe him, they take grass from a forest glade. They do not wash the body, but only the face. The water they use they do not draw from the well where people drink, but take water from a running stream. The body is not anointed with oil. Then they take the spleen of an ox and deck his head until it all glitters, and then take the

[P. 88]

CHAPTER IV

COURTS AND OFFICIALS

121 177 671 THE Ngoni claimed that when they established their kingdoms in Nyasaland they introduced a new idea of law, a different system of courts, and a different procedure for conducting cases in those courts, from those found among the local peoples. Within their kingdoms they imposed on all their subjects these ideas, courts and legal procedure as part of their government, applied to the conquerors and the conquered alike. We shall consider in this chapter only those aspects of the courts and the legal system which were related to the political structure. The categories of crime, the degree of punishment, the sanctions for enforcement of the law, and the effect of the judicial procedure on the balance of equilibrium in the community, all belong to a specialized study and are not included here.

THE NGONI CONCEPT OF LAW

692 643 671 We begin with two texts, the first from the northern kingdom by Cibambo, the second by Ishmael Mwale the Treasurer of the Paramount in the central kingdom.

● [203] ¶ (1) The Ngoni seem to have been born with a gift for leadership or rule. Though they were a wandering tribe, yet there was one Paramount from whom proceeded the laws for the good government of the people. All the lesser chiefs and headmen received from him the leadership of the people. Though they had no way of writing to each other, they kept their unity by messengers passing between them. The Paramount had power to call gatherings from time to time, in which they talked of the affairs of the country. In these gatherings the old men and the men of repute who had a point to make were heard in criticism and made suggestions for the building up of the realm. By this means the Paramount and his counsellors learned of and understood the thoughts of their people. It was in such large gatherings that the laws of the country were delivered to the people, so that they might hold fast to them and not be punished unreasonably for breaking them in ignorance. After they came back from these gatherings, the headmen and men of standing gathered together their villages to tell the people what had been spoken in the great council of the Paramount, and told them carefully about the laws which had come from the gathering.

173 671 (2) Before the Ngoni came to this country the villages were small and isolated from one another. There was constant pouncing on people to catch them as slaves. It was unsafe to go even a quarter of a mile from one village to another, because a man might be in hiding and pounce out and catch you and take you off to his village as a slave, and there was no redress and no case was heard. Most people never went beyond the

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boundaries of their own village, and they were afraid to travel even in a large party of twenty or thirty. So no one had any wisdom beyond that of his own village and family. When the Ngoni came they had one law for all people and they had courts to hear cases where this law was enforced. There was freedom to travel in the land where the Ngoni ruled, because they had peace within their boundaries. Therefore, we say: this was the kind of peace we had.

In these two texts we have one major concept of Ngoni law with three chief ways in which it was implemented. The concept was that there was 'one law for all people' and that the knowledge of and enforcement of this law brought internal peace and resulted in good government in the country. There was one source of law as there was one source of political and military authority—the Paramount. As Cibambo points out, the Paramount delegated his authority for carrying out the law to chiefs and headmen and depended on his 'old men and men of repute' to keep him in touch with the thoughts and desires of all his subjects, so that he might adjust the enforcement of the law to bind the people to him. He also called large gatherings of all the chiefs and *alumuzana* and headmen in order that they might hear from him any new laws and regulations and understand them so that they in turn could make them known to their people. In the intervals between the holding of these large gatherings, which took place not more than once or twice a year, messengers passed constantly from the Paramount's village to all the areas of the chiefs and *alumuzana*, reporting to them about decisions taken at the royal village on matters affecting the country as a whole, and taking back reports to the Paramount on what was happening in the outlying districts.

I attended two of these annual meetings of the chiefs and *alumuzana* and headmen in the central kingdom. They took place not at the Paramount's village but at a more central spot for the whole territory. The people were drawn up in a square formation, with the Paramount at one end supported by his 'mouthpiece' (*mlomo wenkosi*), who always spoke for him, with the six Subordinate Native Authority chiefs beside him, and the councillors (*izinduna*) messengers and other officials of his court and of the S.N.A. courts arranged in order of precedence, facing the crowd as they did during court sessions. On the three sides of the square in the front ranks were the *alumuzana* and the headmen of their villages, sitting in territorial groups, and behind each headman were the *madoda* or senior men of the village, and behind them again the *amajaha* or young men. I watched this assembly of 3,000 to 4,000 people being arranged, as they arrived, by the *izinduna* of the Paramount's court and the *izinduna* of the six chiefs. They took up their places as though on a military parade, and once placed there was no further movement. The effect was that of a barrack square in the straightness of lines and orderliness of behaviour. After all was in order the Paramount

2: Read E-5 (1935-1939) 1956
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be used exclusively for either group, and in fact there was considerable overlapping between them. 622 631

We begin with the text by Cibambo which emphasizes the hierarchy of office-bearers in the northern kingdom in pre-European days and illustrates the correlation between the courts and the political administration. 645

"The former government of the Ngoni was based on the following:

(1) Above all was the one called *Inkosi* or *UBaba*, because they thought of him as the father of the country, the head.

(2) After him came the *izinduna*. Sometimes these were two or perhaps four. These were very highly honoured and the Paramount feared them greatly: he called them *Bobaba* and their words had great weight with him. They were the ones who gave advice to the Paramount and if any grave matter arose he called them to hear what they thought. The Paramount in his village had also his old men who helped him with everything small that did not need to go to the *izinduna*. If there was word that the Paramount was meeting with the *izinduna* he first of all met with the old men and asked for advice to place before the *izinduna*. And these old men had the right to speak when the Paramount took counsel with the *izinduna*.

(3) After the *izinduna* came the *amakosana*, or lesser chiefs. These were perhaps the younger brothers of the ruling Paramount, and had their districts under him. They also had their *izinduna* and were responsible for their own districts. When the Paramount met with the *izinduna*, the *amakosana* were also there if it was considered fitting.

(4) Then there were the *alumusana*. These were over villages or smaller districts. Their villages were called *amahanda* (heads) and they had power in their small districts to carry out the laws and they looked to the *izinduna* for instructions.

(5) Lastly the old men (*madoda*) who wore the head-ring (*cidlodlo*) but not all of them; only those who had good sense and understood the ways of the tribe. [888]

All these five divisions had their share in the government of the country. If there was a great court of justice, all these were to be found at it, and took part in the discussions. If fresh matter arose, or new laws, these delivered them to their villages. Also there were men called *amanxusa*, messengers. These were men chosen to run with messages from the Paramount to the *izinduna* or *amakosana*, to go with and return with news. Almost every village or little district had its chosen messengers. All the types (2), (3) and (4) had their messengers. When anything happened, the messenger in the village of the Paramount made a general proclamation and called the *amanxusa* together. When the *amanxusa* had heard the message they scattered throughout all the country. So in the districts and by this way news travelled very quickly. [203]

In the central kingdom one of the big *izinduna* explained the change in their system which occurred after crossing the Zambesi: 178 622 631

"When the Ngoni were coming from the south they chose lesser chiefs and *izinduna* from the *amakosana*, who were the Paramount's brothers, 645

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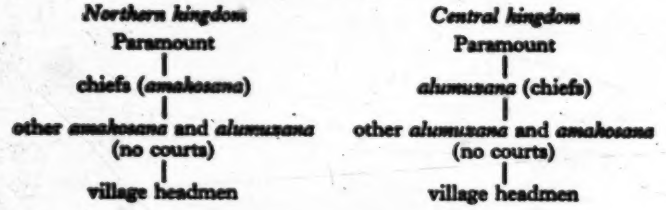
Ngoni territorial office-bearers. 622



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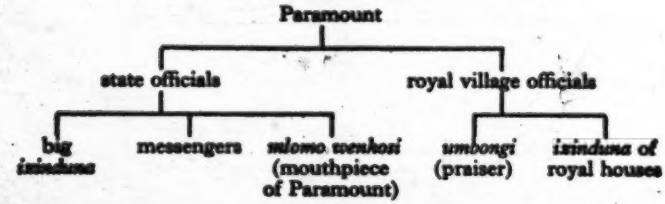
Ngoni national office-bearers (both kingdoms)



In the description of the annual gathering in the central kingdom to discuss new regulations, reference was made to those on 'the platform' at one end of the great square. There the Paramount sat with his state officials, the big *izinduna*, the messengers, and his spokesman or mouthpiece. These have been called state officials in the diagram to distinguish them from the officials of the royal village. It is a distinction which is one of convenience rather than of importance. The Paramount's spokesman lived in the royal village, and the praiser often did not. But the spokesman appeared with the Paramount on all occasions in every part of his kingdom when he went visiting, whereas the official praiser only recited the praise-songs at ceremonies in the royal village.

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The big *izinduna*, as Cibambo points out in his text, were very close to the Paramount, advising him on matters of state, and speaking to the cases in his court. The *izinduna* of the big house and of other houses in the royal village were not concerned with matters of state, but with day-to-day affairs in the village. Illustrations of their work will be given in the next chapter. The work of the messengers, described by Cibambo, was that of keeping close touch between the royal village and the chiefs. He describes also how each territorial office-bearer had his messengers to send out to the heads of the next group below his. By this use of messengers for intercommunication between officials, the *alumuzana* and *amakosana* who had no courts received messengers from the chief above them and sent out their own messengers to the villages which they owned.

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The only group mentioned by Cibambo which is not included in the

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539 867 The moral, which was always repeated at the end as part of the story, was that children were warned not to show unkindness to people but to treat them well so that people would bless them. They were reminded that the older sister showed the qualities of pity, courage and obedience, while the younger sister did not hesitate to display disgust and fear and carelessness. It was the older sister who had her ultimate reward as leading wife of a handsome chief, while the younger sister, as a subsidiary wife, had to take second place.

These two folk-tales were popular among the children, even though they were so different from the animal folk-tales, full of humour and absurdities. The children used to shiver with excitement over the Brass-Rod story, especially the little girls, and the boys sucked in their breath when the wind blew and snapped their fingers for the rattling in the pit. Because the stories were serious and had a didactic purpose, Ngoni fathers approved of them, and encouraged the grandmothers to tell them often in order that the children might remember the moral.

Learning how to behave

● 203 957 [202] Ngoni villages, like the whole Ngoni kingdom, had an efficient system of communication between individuals and groups, but whereas the kingdom had a network of official messengers continually moving between the capital and the outlying sections, the village 'intercom' depended on the children. At any time of day, from first light till after dark, children were moving about the village from one hut to another, from a hut to the kraal gate, taking messages, summoning people, carrying food, reporting arrivals. The messages and summons were all at the bidding of the adults. 576 957 867 202 When a child was called to take a message, he had to respond immediately wherever he was, and run to hear what he was wanted for. Someone calling a child's name, followed by a long drawn out 'Yo—o—o', punctuated all the hours of daylight in a village. When a child was told to call someone